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SUBJECT: UNGA: UN 63RD GENERAL ASSEMBLY ELECTS FIVE JUDGES
TO THE INTERNATIONAL COURT OF JUSTICE

11. (U) Summary: The 63rd General Assembly held elections November 6 for five vacancies on the International Court of Justice (ICJ) for terms of office to begin February 6, 2009. The Security Council held simultaneous elections, per the Statute of the Court. The Statute requires an absolute majority, in the case of the General Assembly, 97 votes, and in the case of the Security Council, 8 votes. To be successful, a candidate must be elected in both the Security Council and the General Assembly elections. Before the fourth and final General Assembly poll, Guinea Bissau, Cameroon and the Philippines raised numerous points of order. The candidates elected to the ICJ were: Antonio Augusto Cancado Trindade from Brazil, Christopher John Greenwood from the UK, Ronny Abraham from France, Awn Shawkat Al-Khasawneh from Jordan, and Abdulqawi Ahmed Yusuf from Somalia. End Summary.

RESULTS FROM THE FIRST BALLOT

12. (U) In the first General Assembly meeting of the day (the 39th Meeting), 191 members cast votes in the first ballot. The following are the General Assembly balloting results in order:

Antonio Augusto Cancado Trindade from Brazil - 163 votes
Christopher John Greenwood from the UK - 157 votes
Ronny Abraham from France - 152 votes
Awn Shawkat Al-Khasawneh from Jordan - 151 votes
Miriam Defensor Santiago from Philippines - 106 votes
Abdulqawi Ahmed Yusuf from Somalia - 92 votes
Maurice Kamto from Cameroon - 81 votes
Sayeman Bula-Bula from the DRC - 23 votes

In the first ballot of the UN Security Council, candidates received the following numbers of votes:

Christopher John Greenwood from the UK - 15 votes
Antonio Augusto Cancado Trindade from Brazil - 14 votes
Ronny Abraham from France - 13 votes
Awn Shawkat Al-Khasawneh from Jordan - 13 votes
Abdulqawi Ahmed Yusuf from Somalia - 8 votes
Maurice Kamto from Cameroon - 6 votes
Miriam Defensor Santiago from Philippines - 5 votes
Sayeman Bula-Bula from the DRC - 1 vote

The candidates from Brazil, the UK, France and Jordan received an absolute majority in both the General Assembly and the Security Council and thus, were declared elected by

the President of the Security Council and the President of the General Assembly (PGA).

13. (U) Because the General Assembly and the Security Council did not give an absolute majority to the same fifth candidate, additional voting was required. In accordance with Article 11 of the Statute of the ICJ, the PGA closed the 39th meeting and immediately opened the 40th meeting in order to hold additional polls for the remaining vacancy. The President of the Security Council also declared the candidates from Brazil, the UK, France, and Jordan to be elected. The Security Council concluded its meeting and immediately opened the next meeting for a second ballot.

RESULTS FROM THE SECOND AND THIRD GENERAL ASSEMBLY BALLOTS

14. (U) Since the candidates from Brazil, UK, France and Jordan had been elected; they were removed from the ballots in the 40th meeting. In the General Assembly, 192 Members cast ballots in the 2nd poll. The results were as follows (in order):

Abdulqawi Ahmed Yusuf from Somalia - 74 votes
Miriam Defensor Santiago from Philippines - 71 votes
Maurice Kamto from Cameroon - 44 votes
Sayeman Bula-Bula from the DRC - 3 votes

As no candidate received an absolute majority (97 votes), the GA suspended the 40th meeting to reconvene after lunch.

15. (U) Upon reconvening the 40th meeting, the GA held a 3rd

ballot. 188 Members cast ballots in the 3rd poll. The results were as follows (in order):

Abdulqawi Ahmed Yusuf from Somalia - 90 votes
Miriam Defensor Santiago from Philippines - 67 votes
Maurice Kamto from Cameroon - 29 votes
Sayeman Bula-Bula from the DRC - 2 votes

As no candidate received an absolute majority after the 3rd poll, the PGA opened the 4th ballot. The DRC took the floor and withdrew its candidate from the ballot.

ARGUMENTS ON POINTS OF ORDER

16. (U) After the DRC's announcement, Guinea Bissau raised a point of order asking under which article would the General Assembly proceed to a fourth ballot. In response, the Secretariat said that Article 5 of the Statute allowed a candidate to be withdrawn as long as all national groups that had made the nominations agreed. As the DRC was the only State that nominated Sayeman Bula-Bula, the withdrawal was accepted. Thereafter, the representative from Guinea Bissau read out a provision in Article 12 which allows for the convening of a joint conference between the Security Council and the General Assembly, if, after the third meeting, a candidate had not been chosen. To this the Secretariat representative responded that the General Assembly was still only in the second meeting (40th meeting) of the day. He explained that Article 11 states that if the Security Council and General Assembly have not elected enough candidates after the second meeting a third meeting should be convened. However, the Secretariat clarified that the General Assembly had not after two ballots (in the 40th meeting) given an absolute majority to any one candidate and that therefore, would continue balloting until the required number of candidates obtain the required majority.

17. (U) Cameroon added to the debate on points of order by demanding of the PGA, "Are we in the 3rd or the 2nd session?" The General Assembly broke to allow the Secretariat to consult the records. Upon reconvening the meeting, the PGA gave the floor to the Secretariat who read out the transcript of the morning meetings. He stated that the PGA has

concluded the 39th meeting of the General Assembly and opened the 40th meeting. Subsequently, the breaks had only been suspensions and the PGA had not opened the 41st meeting. The 40th meeting would not conclude until the General Assembly had given an absolute majority to a candidate for the remaining vacancy. Guinea Bissau continued to insist that the General Assembly was in its 3rd meeting of the day.

¶18. (U) The Philippines raised a point of order regarding the authenticity of the election results in the 39th meeting, since only four candidates had been elected and not all five simultaneously. However, the results of the morning were sustained. The Philippines also stated support for the Secretariat's response to Cameroon and Guinea Bissau, pointing out the difference between a "meeting" and a "ballot."

¶19. (U) Guinea Bissau took the floor and demanded an opinion from the Legal Counsel. After a brief recess, the Secretariat representative read out the opinion of the Legal Counsel as contained in document A/63/186. Guinea Bissau and Cameroon requested the Legal Counsel or a staff member to come in person to answer to the General Assembly on this point of order. Benin raised again the point of order on whether the DRC was authorized to withdraw its candidate. The Secretariat answered these questions again and the GA began the balloting process.

RESULTS OF THE 4TH BALLOT IN THE GA AND OF THE 2ND BALLOT IN THE UNSC

¶10. (U) When the 4th ballot was held, 189 Members cast votes. The results were as follows (in order):

Abdulqawi Ahmed Yusuf from Somalia - 116 votes
Miriam Defensor Santiago from Philippines - 52 votes

Maurice Kamto from Cameroon - 21 votes

The results of the ballot in the second meeting of the Security Council were as follows:

Abdulqawi Ahmed Yusuf from Somalia - 8 votes
Miriam Defensor Santiago from Philippines - 2 votes
Maurice Kamto from Cameroon - 5 votes
Sayeman Bula-Bula from the DRC - 0 votes

Since the candidate from Somalia received an absolute majority in both elections, the PGA and declared the candidate from Somalia to be elected, and the President of the Security Council did the same.

A FINAL OBJECTION FROM CAMEROON

¶11. (U) After the PGA announced the results, Cameroon requested that its objection be read into the minutes. It had requested the Legal Counsel to come, but the General Assembly did not fulfill the request. Cameroon added that in the final ballot, the General Assembly and the Security Council ballots were different. (Sayeman Bula-Bula was listed on the 2nd and final ballot in the Security Council.)

¶12. (SBU) Comment: The UK's Christopher Greenwood made an impressive showing, particularly by receiving fifteen votes in the first round of balloting at the Security Council, the only candidate to do so. Although the fifth slot is informally understood to be an African seat, disarray within the African group had the potential to jeopardize that standing, given a repeatedly strong showing by the Philippines' candidate. End comment.
Khalilzad